

# CITIES AND TOWNS BULLETIN

AND UNIFORM COMPLIANCE GUIDELINES  
ISSUED BY STATE BOARD OF ACCOUNTS

JUNE 2012

PAGE 1

## 2012 LAWS AFFECTING CITIES AND TOWNS

The following is a listing of laws enacted by the General Assembly that are related to cities, towns and municipally owned utilities. This is not intended to be an expression of a legal opinion. If you have any questions regarding legal interpretation, please consult your city or town attorney. We have listed the laws in public law number sequence and the references are to the Indiana Code.

PUBLIC LAW 6 – HOUSE ENROLLED ACT 1009 – EFFECTIVE FEBRUARY 22 AND JULY 1, 2012 – TECHNICAL CORRECTIONS – Makes corrections to several sections of the Indiana Code.

PUBLIC LAW 7 – HOUSE ENROLLED ACT 1016 – EFFECTIVE JULY 1, 2012  
DESIGN-BUILD PROJECTS – Amends IC 5-30-1-11 – Allows fire protection districts to enter into design-build contracts.

PUBLIC LAW 14 – HOUSE ENROLLED ACT 1052 – EFFECTIVE JULY 1, 2012  
STATE QUANTITY PURCHASE AGREEMENTS – PUBLIC SAFETY EQUIPMENT  
Adds IC 4-13-1-25 – Requires the State Department of Administration to award quantity purchase agreements for emergency services equipment.

PUBLIC LAW 17 – HOUSE ENROLLED ACT 1154 – EFFECTIVE JULY 1, 2012  
PUBLIC WORKS PROJECTS – Amends IC 36-1-12-4, IC 36-1-12-4.7, and IC 36-1-12-5 - Repeals IC 36-1-12-22 – Requires preparation of general plans and specifications and advertising for sealed proposals for public works projects of at least \$150,000 for all political subdivisions except boards of aviation commissioners and airport authorities. Requires advertising for proposals by boards of aviation commissioners and airport authorities for public works projects of at least \$100,000. Raises the threshold for requiring a financial statement, statement of experience, proposed plan for the project, and the equipment that the bidder has available from \$100,000 to \$150,000. Allows bids to be opened after the time designated if the board makes a written determination that it is in the best interest of the board to delay the opening and the day, time and place of the rescheduled opening are announced at the originally scheduled opening. Eliminates the local Indiana businesses price preference requirement for public works projects.

PUBLIC PURCHASES LAW – Amends IC 15-22-15-20.9 – Requires an adjacent county who qualifies for a local Indiana business price preference to be an Indiana county.

**2012 LAWS AFFECTING CITIES AND TOWNS**

PUBLIC LAW 30 - SENATE ENROLLED ACT 98 – EFFECTIVE JULY 1, 2012

CITY DEPARTMENTS – MULTI-YEAR INTERLOCAL AGREEMENTS – Amends IC 36-4-8-12 – Allows a city department, officer, or employee to obligate the city beyond the amount of money appropriated for that department, officer, or employee if:

1. the obligation is made under a multi-year interlocal agreement with another governmental entity, and
2. the agreement is approved by the city fiscal body.

PUBLIC LAW 31 – SENATE ENROLLED ACT 109 – EFFECTIVE JULY 1, 2012

DEPOSIT ACCOUNTS – Amends IC 5-13-9-5.3 – Allows a city or town council to pass an ordinance or resolution authorizing the investment in interest bearing deposit accounts in accordance with the following conditions:

1. The funds are initially invested through a depository that is selected by the investing officer.
2. The selected depository arranges for the deposit of the funds in interest bearing deposit accounts in one (1) or more federally insured banks or savings and loan associations, wherever located, for the account of the city or town.
3. The full amount of the principal and any accrued interest of each deposit are covered by insurance of any federal deposit insurance agency.
4. The selected depository acts as a custodian for the city or town with respect to the deposits.
5. On the same date that the city or town's funds are deposited, the selected depository receives an amount of deposits covered by insurance of any federal deposit insurance agency from customers of other institutions, wherever located, at least equal to the amount of the funds invested by the city or town.

Public funds invested in this manner are not subject to any security or pledging requirements that may otherwise be applicable to the deposit or investment of public funds.

PUBLIC LAW 33 - SENATE ENROLLED ACT 114 – EFFECTIVE MARCH 14, 2012

DRIVING WHILE SUSPENDED – Amends IC 9-24-19-2 – Makes a technical correction to the driving while suspended statute.

PUBLIC LAW 36 - SENATE ENROLLED ACT 128 – EFFECTIVE JULY 1, 2012

PENSION MANAGEMENT OVERSIGHT COMMISSION – NONCODE – Urges the State Legislative Council to assign the Commission the task of studying local retirement plans not administered or managed by the Indiana Public Retirement System.

2012 LAWS AFFECTING CITIES AND TOWNS

PUBLIC LAW 37 - SENATE ENROLLED ACT 131 – EFFECTIVE JULY 1, 2012

SOLID WASTE MANAGEMENT DISTRICTS – Amends IC 13-21-3-13.5 – Requires additional information on expenditures, solid waste disposal, and recycling be included on a solid waste management district's annual report. Requires such report to be published on the Internet Website maintained by the district or counties that are members of the district.

PUBLIC LAW 43 - SENATE ENROLLED ACT 191 – EFFECTIVE JULY 1, 2012

INVESTMENTS – Adds IC 5-13-9-5.7 – Allows a city or town council to adopt an investment policy authorizing the investment of funds for more than two years and not more than five years.

The policy must:

1. be in writing;
2. be adopted at a public meeting;
3. provide for the investment of public funds with the approval of the investing officer;
4. provide that the investments must be made in accordance with IC 5-13;
5. limit the total investments outstanding to not more than twenty-five percent (25%) of the total portfolio of public funds invested by the city or town, including balances in transaction accounts; and
6. state a date on which the policy expires, which may not exceed four (4) years.

A policy adopted remains in effect only through the date of expiration established in the policy, which may not exceed four (4) years.

A fiscal body that has adopted a written investment policy may adopt an ordinance authorizing its investing officer to make investments having a stated final maturity that is:

1. more than two (2) years; but,
  2. not more than five (5) years;
- after the date of purchase or entry into a repurchase agreement.

An ordinance adopted and the power to make an investment expire on the date on which the policy expires, which may not exceed four (4) years.

**2012 LAWS AFFECTING CITIES AND TOWNS**

## PUBLIC LAW 43 (Continued)

After an investment of public funds is made by the investing officer, the total investments of the city or town outstanding may not exceed twenty-five percent (25%) of the total portfolio of public funds invested by the city or town, including balances in transaction accounts. However, an investment made in this manner when the investment is made remains legal if:

1. the investment policy has expired; or
2. a subsequent decrease in the total portfolio of public funds invested by the political subdivision, including balances in transaction accounts, causes the percentage of investments outstanding to exceed twenty-five percent (25%) of the total portfolio of public funds invested by the city or town.

An investing officer may contract with a federally regulated investment advisor or other institutional money manager to make investments under these provisions.

## PUBLIC LAW 49 - SENATE ENROLLED ACT 307 – EFFECTIVE MARCH 14, 2012

FIRE PROTECTION TERRITORIES – Amends IC 36-8-19-6 – Clears up language dealing with the required ordinance or resolution to form a territory.

## PUBLIC LAW 50 - SENATE ENROLLED ACT 329 – EFFECTIVE JULY 1, 2012

EMINENT DOMAIN – Amends IC 32-24-1-11 – Changes the filing deadlines for appeals and written exceptions.

## PUBLIC LAW 52 - SENATE ENROLLED ACT 378 – EFFECTIVE JULY 1, 2012

CONSERVANCY DISTRICTS – Amends IC 14-33-6-13 – Allows conservancy districts to enter into contracts with local government agencies for security services.

## PUBLIC LAW 56 – HOUSE ENROLLED ACT 1090 – EFFECTIVE MARCH 14, 2012

DELINQUENT PROPERTY TAXES - Amends several sections of IC 6-1.1-24 – Allows for real property to be removed from a tax sale if certain payment arrangements are made between a taxpayer and a county treasurer. Makes several changes to the minimum bid requirements on tax sale property. Provides for the waiver of penalties and interest in certain circumstances.

**2012 LAWS AFFECTING CITIES AND TOWNS**

PUBLIC LAW 61 - SENATE ENROLLED ACT 173 – EFFECTIVE JULY 1, 2012

AIRPORT BOARDS – Amends IC 8-22-2-2, IC 8-22-2-18.5, IC 8-22-3-5, and IC 8-22-3-19 – Requires members of a board of aviation commissioners and members of an airport authority board to not be an owner, major shareholder, director, officer, or employee of any entity engaged in commercial aeronautics.

PUBLIC LAW 67 - SENATE ENROLLED ACT 309 – EFFECTIVE JULY 1, 2012

PUBLIC WORKS/PUBLIC PURCHASES – See Public Law 17 for similar provisions.

PUBLIC LAW 69 – HOUSE ENROLLED ACT 1033 – EFFECTIVE JULY 1, 2012

CRIMINAL HISTORY INFORMATION – Adds IC 24-4-18, IC 34-28-5-15, and IC 34-28-5-16 – Amends IC 35-38-8-7, IC 35-50-2-1, and IC 35-50-2-7 – Requires criminal history providers to update their records annually to remove inaccurate information and only disclose certain information relating to a conviction, as of July 1, 2013. Places restrictions on court clerks disclosing information on persons alleged to have committed an infraction.

PUBLIC LAW 74 – HOUSE ENROLLED ACT 1092 – EFFECTIVE JULY 1, 2012

WABASH CITY COURT – Adds IC 33-35-2-6.5 – Provides that the Wabash City Court has concurrent jurisdiction with the Wabash Circuit Court in civil cases in which the amount of the controversy does not exceed \$1,500.

PUBLIC LAW 75 – HOUSE ENROLLED ACT 1163 – EFFECTIVE JULY 1, 2012

PUBLIC WORKS PROJECTS – RETAINAGE AND PAYMENT BONDS - Amends IC 36-1-12-12 and IC 36-1-12-13.1 – Makes technical corrections to the laws dealing with retainage and payment bonds.

PUBLIC LAW 77 – HOUSE ENROLLED ACT 1186 – EFFECTIVE JULY 1, 2012

EMERGENCY MEDICAL SERVICE PERSONNEL - Adds IC 16-18-2-6.5 - Amends IC 9-19-14.5-1 and IC 16-18-2-7 – Renames “emergency medical technician – intermediate” as “advanced emergency medical technician”. Deletes the term “emergency medical technician – basic advanced”.

PUBLIC LAW 84 – HOUSE ENROLLED ACT 1283 – EFFECTIVE JULY 1, 2012

RECORD RETENTION SCHEDULES - Amends IC 5-15-6-2.5 – Requires each county Commission of Public Records to implement local government record retention schedules not more than 30 days after adoption by the State’s Oversight Committee of the Indiana Commission on Public Records (ICPR).

**2012 LAWS AFFECTING CITIES AND TOWNS**

PUBLIC LAW 87 – SENATE ENROLLED ACT 132 – EFFECTIVE MARCH 16, 2012  
WATER UTILITY RESOURCE DATA – Adds IC 8-1-30.5 – Requires all municipally owned water utilities, conservancy districts, and regional water districts and not-for-profit water utilities to submit an annual report to the Indiana Utility Regulatory Commission (IURC) beginning with the calendar year ending December 31, 2012, regardless of whether such utilities are under the jurisdiction of the IURC. Such report shall include the following:

1. The number of Indiana customers served by the water utility.
2. A description of the water utility's service territory in Indiana.
3. The total utility plant in service with respect to the water utility's Indiana customers.
4. The amount and location of the water resources used by the water utility to provide water service to the water utility's Indiana customers.
5. The availability and location of additional water resources that could be used, if necessary, by the water utility to provide water service to Indiana customers.
6. The amount of funding received, including the purpose of the funding, from the following sources:
  - A. A state revolving loan program under IC 13-18.
  - B. The office of community and rural affairs established by IC 4-4-9.7-4.
  - C. United States Department of Agriculture rural development loans and grants.
  - D. The Indiana Bond Bank.
  - E. The issuance of any debt instruments for the purpose of raising capital to fund infrastructure projects.

Requires the IURC to compile, organize and summarize the data and information contained in the reports and submit a summary and recommendations on the efficient use of water resources, necessary infrastructure investments by water utilities, and actions designed to minimize impacts on rates and charges imposed on customers to the Regulatory Flexibility Committee established under IC 8-1-2.6-4.

PUBLIC LAW 90 - SENATE ENROLLED ACT 193 – EFFECTIVE JANUARY 1, 2013  
STATEMENT OF ECONOMIC INTERESTS FOR LOCAL AND SCHOOL BOARD OFFICES – Adds IC 3-8-9 – Requires candidates for local office to file a written statement of economic interests with the individual's declaration of candidacy, petition of nomination, declaration of intent to be a write-in candidate, or certificate of candidate selection.

**2012 LAWS AFFECTING CITIES AND TOWNS**

PUBLIC LAW 92 - SENATE ENROLLED ACT 273 – EFFECTIVE MARCH 16, 2012

OUTDOOR STAGE EQUIPMENT – Adds IC 2-5-34.7, IC 22-12-1-17.5, IC 22-12-1-17.7, IC 22-13-2-8.5, and IC 22-15-3-8 – Amends IC 22-12-1-4 – States that a city or town that regulated outdoor stage equipment before March 15, 2012, under an ordinance adopted before March 15, 2012, may, if the ordinance is in effect on March 15, 2012, continue to regulate outdoor stage equipment under the ordinance after March 14, 2012, in the same manner that the city or town applied the ordinance before March 15, 2012. However, a statewide code of fire safety laws or building laws governing outdoor stage equipment that is adopted by the State Fair Commission after March 14, 2012, takes precedence over any part of a city or town ordinance that is in conflict with the commission's adopted code. A city or town need not be certified or approved under IC 22-15-3-1 or another law to continue to regulate outdoor stage equipment after March 14, 2012.

If a city or town adopts an ordinance after March 14, 2012, the city or town shall require compliance with:

1. the rules adopted by the Outdoor Stage Safety Committee;
2. orders issued under IC 22-13-2-11 that grant a variance to the rules adopted;
3. orders issued under IC 22-12-7 that apply the rules adopted; and
4. a written interpretation of the rules adopted binding on the unit under IC 22-13-5-3 or IC 22-13-5-4;

on both private and public property located within the boundaries of the city or town, including, in the case of a consolidated city, the state fairgrounds. This does not limit the authority of a unit (as defined in IC 36-1-2-23) under IC 36-7-2-9 to enforce building laws and orders and written interpretations related to building laws.

PUBLIC LAW 97 – HOUSE ENROLLED ACT 1117 – EFFECTIVE JULY 1, 2012

REGIONAL WATER, SEWAGE AND WASTE DISTRICTS AND NOT-FOR-PROFIT UTILITIES – Adds IC 13-11-2-270, IC 13-26-2-2.5, IC 13-26-4-6.1, IC 13-26-4-8 and IC 13-26-5-2.6 – Amends IC 8-1-2-125, IC 8-1-8-1, IC 13-26-2-3, IC 13-26-5-2, IC 13-26-5-2.5, IC 13-26-11-2, IC 13-26-11-13, IC 13-26-11-15 and IC 13-26-14-4 – Provides that a district or utility may not require a property owner to connect to a system for ten years under certain conditions. Limits the daily penalty for failing to connect to a sewer system to \$100 per day. States that if a flat rate is charged for sewer charges, the district must provide an explanation as to how the charge was calculated. Makes changes to the laws governing campground and camp billing.

**2012 LAWS AFFECTING CITIES AND TOWNS**

PUBLIC LAW 103 – HOUSE ENROLLED ACT 1247 – EFFECTIVE MARCH 16, 2012  
DRIVER'S LICENSES – Amends IC 9-24-12-1 and IC 9-29-9-2 – Provides for expiration dates and sets fees for renewal of licenses set to expire in 2012.

PUBLIC LAW 112 - SENATE ENROLLED ACT 19 – EFFECTIVE VARIOUS DATES  
REAL PROPERTY ASSESSMENT – Adds IC 6-1.1-4-4.2, IC 6-1.1-4-21.4, IC 6-1.1-22.6 and IC 36-7-15.1-36.3 – Amends several sections of IC 6-1.1 and IC 36-7-15.1 – Requires county assessors to prepare and submit a reassessment plan to the Department of Local Government Finance (DLGF) before July 1, 2013 and every fourth year thereafter. Requires the DLGF to approve such plans before March 1 of the year following the year in which the plan is submitted. Sets out procedures for resolving multi-year delays in the issuance of tax bills for counties that are at least three years behind in issuing tax bills.

PUBLIC LAW 113 – SENATE ENROLLED ACT 22 – EFFECTIVE JULY 1, 2012  
CONSERVANCY DISTRICTS – DIRECTOR COMPENSATION - Amends IC 14-33-5-16  
Allows directors of a conservancy district to receive an increase in compensation up to a reasonable amount that is approved by a majority vote of the board and authorized by a court order.

PUBLIC LAW 114 - SENATE ENROLLED ACT 26 – EFFECTIVE JULY 1, 2012  
TITLE 35 REVISIONS – Adds IC 35-31.5 – Amends several sections of IC 35 – Organizes definitions in Title 35.

PUBLIC LAW 117 - SENATE ENROLLED ACT 97 – EFFECTIVE JULY 1, 2012  
PUBLIC INTOXICATION – Amends IC 7.1-5-1-3 and IC 7.1-5-1-6 – Provides that a person may not be convicted of certain offenses relating to public intoxication unless the person:

1. endangers the person's life;
2. endangers the life of another person;
3. breaches the peace or is in imminent danger of breaching the peace; or
4. harasses, annoys, or alarms another person.

**2012 LAWS AFFECTING CITIES AND TOWNS**

**PUBLIC LAW 118 - SENATE ENROLLED ACT 107 – EFFECTIVE JULY 1, 2012**

**CITY SALARY ORDINANCES** – Amends IC 36-4-7-3 and IC 36-8-3-3 – Requires second and third class cities to adopt their salary ordinances by November 1 for the ensuing budget year.

**PUBLIC LAW 119 - SENATE ENROLLED ACT 115 – EFFECTIVE VARIOUS DATES**

**CLASSIFICATIONS OF POLITICAL SUBDIVISIONS** – Amends several sections of the Indiana Code – Changes population parameters in various statutes to reflect the 2010 decennial census count.

**PUBLIC LAW 120 - SENATE ENROLLED ACT 147 – EFFECTIVE JULY 1, 2012**

**PROPERTY TAXES** – Amends IC 6-1.1-22-8.1, IC 6-1.1-22-9.7, IC 6-1.1-26-5, IC 6-1.1-37-9, AND IC 36-2-7-19 – Allows counties to make certain property tax information available through electronic mail. Allows monthly property tax payments to be made electronically. Makes several other changes to the laws dealing with property tax collection.

**PUBLIC LAW 124 - SENATE ENROLLED ACT 233 – EFFECTIVE MARCH 19, 2012**

**ELECTIONS** – Amends several sections of Title 3 – Makes amendments to several municipal election laws.

**PUBLIC LAW 126 - SENATE ENROLLED ACT 262 – EFFECTIVE JULY 1, 2012**

**TITLE 35 REVISIONS** – Adds IC 35-44.1 – Reorganizes certain crimes by relocating and renumbering them as offenses against public administration (IC 35-44) into a new article (IC 35-44.1).

**PUBLIC LAW 132 - SENATE ENROLLED ACT 345 – EFFECTIVE MARCH 19 AND JULY 1,**

**2012 – STATE WIDE 911 SYSTEM** – Adds IC 36-8-16.7 – Requires the Indiana Advisory Commission on Intergovernmental Relations to study roles and responsibilities of the state and political subdivision in providing E-911 services and report its findings to the legislative council and the budget committee by November 1, 2012. Establishes a monthly statewide 911 fee to each standard user of ninety cents. Increases the prepaid wireless charge to fifty cents. Establishes a thirteen member statewide 911 board to administer a new E-911 system. Establishes a statewide 911 fund for deposit of monthly statewide 911 fees. Requires the State Board of Accounts to audit the fund. Provides for distributions to be made from the fund to local PSAPS. Requires the State Board of Accounts to review and report the use of the fees by PSAPs to the State Budget Committee.

**2012 LAWS AFFECTING CITIES AND TOWNS**

## PUBLIC LAW 133 – HOUSE ENROLLED ACT 1002 – EFFECTIVE VARIOUS DATES

STATE COMMISSIONS AND BOARDS – Adds IC 2-5-1.6, IC 4-23-31, IC 4-23-32, IC 13-13-8 – Amends and repeals several sections of the Indiana Code dealing with state commissions and boards. Makes several changes to the laws dealing with the Indiana economic development corporation.

## PUBLIC LAW 134 – HOUSE ENROLLED ACT 1003 – EFFECTIVE JULY 1, 2012 AND JANUARY 1, 2013 – PUBLIC RECORDS/PUBLIC ACCESS – Adds IC 5-14-1.5-3.5, IC 5-14-1.3-3.6, IC 5-14-1.5-7.5, IC 5-14-3-9.5 and IC 5-14-4-14 – Amends IC 5-14-1.5-3, IC 5-14-1.5-4, IC 5-14-1.5-5, IC 5-14-1.5-7, IC 5-14-3-3, IC 5-14-3-4, IC 5-14-3-9, and IC 5-15-5.1-1 – Allows a court to impose civil penalties to officers of a public agency or a public agency where an individual with specific intent to violate the law fails to perform a duty under IC 5-14-1.5 by:

1. failing to give proper notice of a regular meeting, special meeting, or executive session;
2. taking final action outside a regular meeting or special meeting;
3. participating in a secret ballot during a meeting;
4. discussing in an executive session subjects not eligible for discussion in an executive session;
5. failing to prepare a memorandum of a meeting, or
6. participating in at least one (1) gathering of a series of gatherings.

States a civil penalty may only be imposed as part of an action filed. A court may not impose a civil penalty unless the public access counselor has issued an advisory opinion:

1. to the complainant and the public agency;
2. that finds that the individual or public agency violated IC 5-14-1.5; and
3. before the action is filed.

If an individual:

1. continues to deny a request that complies with IC 5-14-3-3(b) for inspection or copying of a public record after the public access counselor has issued an advisory opinion:
  - A. regarding the request for inspection or copying of the public record; and
  - B. that instructs the public agency to allow access to the public record; and
2. denies the request with the specific intent to unlawfully withhold a public record that is subject to disclosure;

the individual and the public agency employing the individual are subject to a civil penalty.

If an individual intentionally charges a copying fee that the individual knows exceeds the amount set by statute, fee schedule, ordinance, or court order, the individual is subject to a civil penalty.

2012 LAWS AFFECTING CITIES AND TOWNS

## PUBLIC LAW 134 (Continued)

A civil penalty may only be imposed as part of an action filed. A court may not impose a civil penalty unless the public access counselor has issued an advisory opinion:

1. to the complainant and the public agency;
2. that instructs the public agency to allow access to the public record; and
3. before the action is filed.

Civil penalties imposed by a court may not be more than \$100 for the first violation and not more than \$500 for each additional violation. States that an individual is personally liable for a civil penalty that is imposed and that civil penalties imposed against a public agency shall be paid by the public agency's budget. Creates an education fund for the public access counselor where such civil penalties shall be deposited. Such fund is to be used to train elected officials and the public about public access laws.

PUBLIC LAW 135 – HOUSE ENROLLED ACT 1005 – EFFECTIVE JULY 1, 2012 AND JANUARY 1, 2013 – NEPOTISM, CONTRACTS, CONFLICTS OF INTEREST - Adds IC 3-5-9, IC 5-11-13.1.1, IC 36-1-20.2, and IC 36-1-21 – Amends IC 36-1-8-10.5, IC 36-4-4-2, IC 36-8-3-12 and IC 36-8-10-11 – States that an individual who is serving as a volunteer firefighter for a volunteer fire department or a fire department that provides fire protection services to a unit:

1. under a contract, excluding a mutual aid agreement; or
2. as the unit's fire department;

may not assume or hold an elected office of a unit that receives fire protection services from the department in which the volunteer firefighter serves.

An individual who:

1. is an employee of a unit, serving as a full-time, paid firefighter; or
2. serves as a volunteer firefighter;

in a department that provides fire protection services to more than one (1) unit, excluding fire protection services provided under mutual aid agreements, may not assume or hold an elected office of any unit that receives fire protection services from the department.

The provisions of IC 3-5-9 do not prohibit:

1. a government employee from assuming or holding an elected office of a unit other than the unit that employs the government employee;
2. a full-time, paid firefighter or volunteer firefighter from assuming or holding an elected office of a unit other than a unit that receives fire protection services from the department in which the volunteer firefighter serves; or
3. an individual who assumes or holds an elected office from also being appointed to and serving on a board, commission, or committee of the unit.

Provides that:

1. a volunteer firefighter who assumes or holds an elected office on January 1, 2013, may continue to hold the elected office and serve as a volunteer firefighter; and
2. a government employee who assumes or holds an elected office on January 1, 2013, may continue to hold the elected office and be employed as a government employee;

until the term of the elected office that the volunteer firefighter or government employee is serving on January 1, 2013, expires.

2012 LAWS AFFECTING CITIES AND TOWNS

## PUBLIC LAW 135 (Continued)

NEPOTISM – Adds IC 36-1-20.2 that applies to counties, cities and towns, and townships. Prohibits individuals who are relatives from being employed in a position that results in one relative being in the direct line of supervision of the other relative. Defines “relative” to mean a spouse, parent or stepparent, child or stepchild, brother, sister, stepbrother, stepsister, niece or nephew, aunt or uncle or daughter-in-law or son-in-law.

Exempts individuals employed on July 1, 2012 unless the individual has a break in employment. Exempts precinct election officers and volunteer firefighters as being considered employed. Defines “employed” to mean an individual who is employed full-time, part-time, temporary, intermittent, or hourly. Requires the legislative body to adopt a nepotism policy that includes, at a minimum, the requirements in IC 36-1-20.2. Requires a statement by the executive to be included in the Gateway Annual Report stating whether such policy has been implemented. Requires that if the State Board of Accounts finds that such policy has not been implemented, it shall forward such information to the Department of Local Government Finance (DLGF). The DLGF may not approve a unit of government’s budget if the unit has not implemented a nepotism policy.

CONTRACTING – Creates IC 36-1-21 – A unit may enter into a contract or renew a contract for the procurement of goods or services or a contract for public works with a relative of an elected official or a business entity that is owned wholly or partially by a relative of an elected official only if the requirements of IC 36-1-21 are met and the elected official does not violate IC 35-44-1-8.

A unit may enter into a contract or renew a contract with an individual or business entity if:

1. the elected official files with the unit a full disclosure, which must:
  - A. be in writing;
  - B. describe the contract or purchase to be made by the unit;
  - C. describe the relationship that the elected official has to the individual or business entity that contracts or purchases;
  - D. be affirmed under penalty of perjury;
  - E. be submitted to the legislative body of the unit and be accepted by the legislative body in a public meeting of the unit prior to final action on the contract or purchase; and
  - F. be filed, not later than fifteen (15) days after final action on the contract or purchase, with:
    - i. the state board of accounts; and
    - ii. the clerk of the circuit court in the county where the unit takes final action on the contract or purchase;
2. the appropriate agency of the unit:
  - A. makes a certified statement that the contract amount or purchase price was the lowest amount or price bid or offered; or
  - B. makes a certified statement of the reasons why the vendor or contractor was selected; and
3. the unit satisfies any other requirements under IC 5-22 or IC 36-1-12.

2012 LAWS AFFECTING CITIES AND TOWNS

## PUBLIC LAW 135 (Continued)

An elected official shall also comply with the disclosure provisions of IC 35-44-1-3, if applicable.

This does not affect the initial term of a contract in existence at the time the term of office of the elected official of the unit begins.

Each elected officer of the unit shall annually certify in writing, subject to the penalties for perjury, that the officer is in compliance. An officer shall submit the certification to the executive of the unit not later than December 31 of each year.

If the state board of accounts finds that a unit has not implemented a policy under this chapter, the state board of accounts shall forward the information to the department of local government finance.

If a unit has not implemented a policy under this chapter, the department of local government finance may not approve:

1. the unit's budget; or
2. any additional appropriations for the unit;

for the ensuing calendar year until the state board of accounts certifies to the department of local government finance that the unit has adopted a policy.

Requires units of government to adopt a policy that includes, at a minimum, the contracting requirements set out in IC 36-1-21. Requires a statement in the Gateway Annual Report by the unit's executive stating whether the unit has implemented such policy. Defines elected official to mean the executive or a member of the executive body, a member of the legislative body, or a member of the fiscal body. Defines relative to mean a parent or stepparent, child or stepchild, brother, sister, stepsister, stepbrother, niece or nephew, aunt or uncle, or daughter-in-law or sister-in-law.

## PUBLIC LAW 136 – HOUSE ENROLLED ACT 1049 – EFFECTIVE JULY 1, 2012

STATE INSPECTOR GENERAL – Amends IC 5-11-6-1 and IC 5-11-6-3 – Requires the State Board of Accounts to file certain examination reports with the Inspector General.

CIVIL FILING FEES – Adds IC 33-37-5-31 – Amends IC 33-37-4-4 – Requires a city or town court to collect a pro bono service fee of one dollar (\$1) on a civil action. Such fee shall be distributed to the Auditor of State semiannually.

**2012 LAWS AFFECTING CITIES AND TOWNS****PUBLIC LAW 137 – HOUSE ENROLLED ACT 1072 – EFFECTIVE VARIOUS DATES**

**TAXATION** – Amends and adds sections of IC 6-1.1-17 – Changes dates for adoption of budgets and levies for certain taxing units without elected board members.

**ADDITIONAL APPROPRIATIONS – EFFECTIVE JULY 1, 2012** - Amends IC 6-1.1-18-5 States that IC 6-1.1-18-5 applies to an additional appropriation by a political subdivision that must have the political subdivision's annual appropriations and annual tax levy adopted by a city, town, or county fiscal body under IC 6-1.1-17-20 or by a legislative or fiscal body under IC 36-3-6-9. The fiscal or legislative body of the city, town, or county that adopted the political subdivision's annual appropriation and annual tax levy must adopt the additional appropriation by ordinance before the department of local government finance may approve the additional appropriation.

If a public library that:

1. is required to submit the public library's budgets, tax rates, and tax levies for nonbinding review under IC 6-1.1-17-3.5; and
2. is not required to submit the public library's budgets, tax rates, and tax levies for binding review and approval under IC 6-1.1-17-20,

proposes to make an additional appropriation for a year, and the additional appropriation would result in the budget for the library for that year increasing (as compared to the previous year) by a percentage that is greater than the result of the assessed value growth quotient determined under IC 6-1.1-18.5-2 for the calendar year minus one (1), the additional appropriation must first be approved by the city, town, or county fiscal body described in IC 6-1.1-17-20.3(c) or IC 6-1.1-17-20(d), as appropriate.

**CUMULATIVE AND CAPITAL PROJECTS FUNDS** – Adds IC 6-1.1-18-12.5 – Changes the formula for calculating adjustments to the minimum permissible tax rate for cumulative and capital projects funds to reflect changes in total assessed value in a taxing unit. Allows for loans from the State general fund to certain eligible local units with cumulative or capital projects funds.

**CREDIT CARD TRANSACTION CHARGES OR DISCOUNT FEES – EFFECTIVE MARCH 19, 2012** – Amends IC 36-1-8-11 – States that if there is a vendor transaction charge or discount fee, whether billed to the political subdivision or municipally owned utility or charged directly to the political subdivision's or municipally owned utility's account, the political subdivision or municipally owned utility may collect from the person using the card an official fee that may not exceed the transaction charge or discount fee charged to the political subdivision or municipally owned utility by bank or credit card vendors. The fee is a permitted additional charge under IC 24-4.5-3-202.

**2012 LAWS AFFECTING CITIES AND TOWNS**

**PUBLIC LAW 137 (Continued)**

**PAYMENT OF CLAIMS BY EFT – EFFECTIVE MARCH 19, 2012 – Adds IC 36-1-8-11.5**  
Allows a city or town to adopt a resolution to authorize an electronic funds transfer method of payment of claims. If a city or town adopts a resolution, the city or town may pay money from its funds by electronic funds transfer. A city or town that pays a claim by electronic funds transfer shall comply with all other requirements for the payment of claims by the city or town.

**WEED LIENS – EFFECTIVE JULY 1, 2012 - Amends IC 36-7-10.1-3 – States that if an initial notice of the violation of an ordinance adopted was provided by certified mail or equivalent service, a continuous abatement notice may be posted at the property at the time of abatement instead of by certified mail or equivalent service as required by IC 36-7-10.1-3. A continuous abatement notice serves as notice to the real property owner that each subsequent violation during the same year for which the initial notice of the violation was provided may be abated by the municipally or county, or its contractors.**

**ANNUAL REPORTS/100-R REPORTS – EFFECTIVE MARCH 19, 2012**

Amends IC 5-11-1-4, IC 5-11-13-1, and IC 5-14-3.8-7 – States that the annual report must be in the form and content prescribed by the state examiner and filed electronically in the manner prescribed in IC 5-14-3.8-7. Requires all 100-R reports to be filed electronically and to include a statement indicating whether the political subdivision offers a health plan, a pension plan and other benefits to full-time and part-time employees.

**PUBLIC LAW 138 – HOUSE ENROLLED ACT 1123 – EFFECTIVE JULY 1, 2012**

**PUBLIC EMPLOYEES RETIREMENT FUND (PERF) – Provides for a thirteenth check to certain members of PERF and the teachers' retirement fund.**

**2012 LAWS AFFECTING CITIES AND TOWNS**

PUBLIC LAW 139 – HOUSE ENROLLED ACT 1126 – EFFECTIVE MARCH 19, 2012

WATER AND WASTEWATER UTILITIES – RATES AND CHARGES – Adds IC 8-1.5-3-8.3 – Amends IC 8-1.5-3-8.1, IC 8-1.5-3-8.2, IC 36-9-23-26 and IC 36-9-23-26.1– States that an ordinance adopted after March 31, 2012, that imposes different rates and charges for service to property located outside the corporate boundaries of a municipality as compared to property located within the corporate boundaries of a municipality must state in plain language the percentage difference between the rates and charges. Requires rate increase notices to customers located outside a municipality's corporate boundaries to include a statement that the customers may be entitled to petition the Indiana Regulatory Commission (IURC) to review and adjust the rates and charges if the rates and charges outside the corporate boundaries are more than 15% higher. Allows a municipal water or wastewater utility to petition the IURC to approve the percentage difference if it is more than 15% but not more than 50%.

PUBLIC LAW 141 – HOUSE ENROLLED ACT 1149 – EFFECTIVE JULY 1, 2012

SMOKING BAN – Adds IC 7.1-5-12 – Prohibits smoking in public places, places of employment, State vehicles, or areas within 8 feet of a public place or place of employment. Allows smoking in certain gaming facilities, cigar and hookah bars, fraternal, social and veteran's clubs, tobacco stores, bars and taverns, cigar manufacturing and specialty stores if certain requirements are met. Makes it a Class B Infraction for a violation and a Class A Infraction if a person has been adjudged to have committed 3 prior unrelated violations. Requires certain signs to be posted.

PUBLIC LAW 145 – HOUSE ENROLLED ACT 1192 – EFFECTIVE MARCH 19, 2012

DISTRESSED UNIT APPEAL BOARD (DUAB) – Adds several new sections to IC 6-1.1-20.3 – Allows political subdivisions to apply to the DUAB Board to become designated as a distressed political subdivision. Provides that the DUAB Board can designate an emergency manager of the political subdivision.

PUBLIC LAW 152 - HOUSE ENROLLED ACT 1280 – EFFECTIVE MARCH 19 AND JULY 1, 2012 – FRANCHISE FEES – Adds IC 8-1-34-24.5 – Requires cities and towns who receive franchise fees from an entity providing video services to submit an annual report of such fees to the Indiana Utility Regulatory Commission (IURC) beginning with the calendar year ending December 31, 2012.

PUBLIC LAW 158 - SENATE ENROLLED ACT 302 – EFFECTIVE JULY 1, 2012

TAX EXEMPTION – QUALIFIED ENTERPRISE INFORMATION TECHNOLOGY EQUIPMENT – Amends IC 6-1.1-10-44 – Provides that such exemption is only available to property located in a high technology district area designated by a city or town council.

**DISQUALIFICATION OF CONTRACTORS DEALING WITH IRAN**

Public Law 21, Acts of 2012, added IC 5-22-16.5. This law requires the Indiana Department of Administration to develop and publish a list of vendors that would be disqualified due to dealing with Iran. The law provides for exceptions of vendors that would be disqualified and the steps that political subdivisions must take in order to do business with these vendors. The law also provides that a contractor being awarded a contract must certify in writing that the person is not engaged in investment activities in Iran. The certification is to be placed in the contract file.

**QUESTIONS FROM THE JUNE 2012 CITIES AND TOWNS TRAINING SCHOOL**

**Question No. 1:** Our Town recently borrowed \$20,000 from our Sewage Utility and is going to repay the loan in three years. Can we do that?

**Answer:** Yes. Since IC 36-9-23 does not prohibit or provide for a loan from a sewage utility to a city or town, it is our audit position that a sewage utility could make a loan to a city or town if the city or town passes a Home Rule Ordinance under IC 36-1-3 setting out the provisions and terms of the loan.

**Question No. 2:** Our Town Council passed an ordinance that set a fee of one dollar (\$1) for a copy of a town document and fifty cents (\$.50) for each additional copy. Is this a price that we can charge?

**Answer:** No. IC 5-14-3-8 states that the fee for the copying of documents may not exceed the greater of:

1. ten cents (\$0.10) per page for copies that are not color copies or twenty-five cents (\$0.25) per page for color copies; or
2. the actual cost to the agency copying the document.

In accordance with IC 5-14-3-8, “. . . ‘actual cost’ means the cost of paper and the per-page cost for use of copying or facsimile equipment and does not include labor or overhead costs.”

**Question No. 3:** Do we need to print out materials which are on the SBOA website when attending State-called meetings?

**Answer:** Yes. All handout material for State-called meetings will be available on our website ([www.in.gov/sboa](http://www.in.gov/sboa)) two weeks before the date of the meetings. A reminder will be emailed to your email address prior to the meeting. Click on “Meeting Materials” to obtain the handouts.

**Question No. 4:** If the Clerk-Treasurer retires at the end of a year, who is responsible for the reports that are due after the end of the year?

**Answer:** The new Clerk-Treasurer is responsible for filing such reports. However, we strongly encourage the former Clerk-Treasurer to offer assistance in filing the reports.